

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ORDER

Crim. File No. 06-124 (MJD/RLE)

(1) JEFFERY LEE OLIVER,

Defendant.

Elizabeth Altman, Assistant United States Attorney, Counsel for Plaintiff.

Gary R. Bryant-Wolf, Counsel for Defendant.

The above-entitled matter comes before the Court upon the Report and Recommendation of Chief United States Magistrate Judge Raymond L. Erickson dated June 5, 2006. On June 22, 2006, Defendant Jeffery Lee Oliver filed objections to the Report and Recommendation. On July 25, 2006, Oliver retained new counsel, Gary Bryant-Wolf. On September 21, 2006, Oliver filed a Motion for Leave to Supplement the Record [Docket No. 23].

Oliver asserts that, on the day of the suppression hearing, his former counsel received two photographs from the Government showing the Ford Expedition that Oliver was driving when he was stopped by Minnesota State

Highway Patrol for having no rear license plate and no visible temporary vehicle registration sticker. In the Report and Recommendation, the Chief Magistrate Judge concluded that because the rear window was tinted, the officer could not ascertain whether the paper in the back window was a temporary registration sticker. (Report & Recommendation at 10-11, 15-16.) Oliver claims that the photographs, which were not introduced at the suppression hearing, show that the back window of the Expedition was not tinted. He also requests that the Government provide any additional photographs of the Expedition; however, the Government represents that there are no additional photographs. Finally, Oliver asks to file supplemental objections to the Report and Recommendation. The Government opposes Oliver's motion.

The Court exercises its discretion to allow Oliver to introduce the two photographs at issue. Instead of permitting Oliver to file supplemental objections, the Court remands this matter to the Chief Magistrate Judge to reopen the suppression hearing to permit admission of the two photographs and any necessary additional testimony.

Accordingly, based upon the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Defendant's Motion for Leave to Supplement the Record [Docket No. 23] is **GRANTED**.
2. The Court declines to adopt the Chief Magistrate Judge's Report and

Recommendation dated June 5, 2006 [Docket No. 17].

3. Defendant's Motion to Suppress Evidence [Docket No. 11] and Defendant's Motion to Suppress Statements [Docket No. 12] are **REMANDED** to the Chief Magistrate Judge.

Dated: October 31, 2006

s / Michael J. Davis
Judge Michael J. Davis
United States District Court